

REMARKS

Claims 1 and 5-6 are have been examined and are now pending in the application. Reexamination and reconsideration of all outstanding rejections and objections are requested.

Claim 1 is rejected under 35 U.S.C. §103(a) as being unpatentable over Kienitz in view of Sorensen, Blair, Teetzel, and Winnard.

The present invention, as recited, for example, in claim 1, is a hand-held IR thermometer including a dual laser beam sighting system with lasers oriented so that their beams cross at the focal point of the IR optics, a light source, mounted in the housing, for illuminating the area around the energy zone, and a magnetic base, attached to the housing, for creating an attachment to an automobile being repaired.

Kienitz discloses a hand held radiometer with a laser sighting system and digital camera.

Sorensen discloses an apparatus for heating the surface of a car. The apparatus is on wheels and is moved near the surface of the car to apply heat from heating lamps. A servo system includes an optical pyrometer for measuring temperature to provide for adjustment of the intensity of the heating lamps. A pair of lasers project dots onto the car surface so that when the dots converge the lamps are about 10 inches from the car surface.

Blair discloses a system having a fixed focus camera for forming visual images and a fixed focus laser assembly.

Teetzel discloses a laser gun sight. The gun sight includes a removable flashlight.

Willard discloses a magnetic device for storing and holding tools.

The examiner states that Kienitz discloses the basic IR radiometer with laser sighting system but does not explicitly teach the particular sighting system, a magnetic base, and that the repair service is repair of automobiles.

It is further stated that Sorensen is cited to show a device in the applicant's field of endeavor inherently having an IR optic, detector, and crossed-beam laser. It is stated that Sorensen is silent that the beams of the laser are crossing at the focus of the IR optics.

It is further stated that Teetzel discloses a sighting device in combination with an illuminating device and that the illuminating device is needed so as to illuminate a target area along with a laser dot.

It is further stated that Blair shows a dual laser sighting system having two beams which cross at the fixed focal points of the camera.

It is concluded that it would have been obvious to make the device taught by Keinitz useful in auto repair as taught by Sorenson, because car service is also a repair service, which requires temperature/ thermal analysis during a repair such as, for example, paint application.

It is then concluded that would have been obvious to modify the device disclosed by Keinitz, so as to have an additional light source/flashlight located in the same housing, so as to allow the operator to conveniently illuminate the target/energy zone delineated by the laser sight module, in order to enhance a target energy zone spot of interest, so as to allow the operator to clearly delineate the target for the intended use..

It is also stated that Winnard disclosed a device having a magnetic surface/base attachable to any surface of a car and it would have been obvious to add a magnetic base so the system disclosed by Keinitz.

This rejection is respectfully traversed for the following reasons.

A prima facie case of obviousness requires that all the claimed elements in the combination are taught or suggested by the references. MPEP §2143.03.

Several of the claimed elements are not taught or suggested by the references. In particular, there is no disclosure in any of the references of the dual laser cross beamed sighting system and light source for illuminating the area surrounding the energy zone.

As described in the specification, the light source is important to free the hands of a repairman from having to hold a flashlight. In Sorensen there is no light source illuminating the energy zone. The pyrometer in Sorensen does not image an energy zone but provides a temperature reading for use by the heating lamps, thus no energy zone is defined. Further, the heating lamps do not function to illuminate but to heat.

Although Teetzel has been cited to show an illumination source, Teetzel is non-analogous art. A two part test is applied to determine whether a reference is analogous: (1) whether the art is from the same field of endeavor, regardless of the problem addressed, and (2) if the

reference is not within the field of the inventor's endeavor, whether the reference still is reasonably pertinent to the particular problem with which the inventor is involved.

An inventor working in the field of auto repair and radiometer technology would not be charged with knowledge of developments in the gun sight art. Thus, the Teetzel reference is not from the same field of endeavor. Further, the problem solved by of the flashlight in the Teetzel system is not clear. At col. 5, line 21-22 it is stated that the laser dot is in the center of the flashlight beam. An at col. 5, line 29 it is stated that the flashlight can be activated independently for map reading. Accordingly, the flashlight may serve merely to provide a convenient light source for the user or it may assist in aiming the gun. There is no teaching of a flashlight aligned to illuminate an energy zone so a user's hands are freed. The teaching of the reference is not reasonably pertinent to the particular problem with which the inventor is involved.

Accordingly, the claimed light source, mounted in the housing, for illuminating an area surrounding the energy zone taught by the combination proposed in the office action.

Additionally, the system of Blair discloses a fixed focus laser assembly but no light source for illuminating an energy zone. Blair is a system for forming a visual image and no energy zone is defined for illumination.

Secondly, there is no disclosure of a magnetic base, attached to the housing, for creating an attachment to an automobile being repaired. The reference Winnard discloses a magnetic system for storing tools. There is no teaching of a magnetic base for attaching a tool to an automobile being repaired.

Accordingly, the requirements of MPEP §2143.03 have not been met and a prima facie case of obviousness has not been established.

Finally, there is no motivation or teaching in the cited references to combine the references to make the combination of claim 1 obvious. Such a teaching is required to avoid the use of impermissible hindsight to use the applicant's claim as a roadmap to combine the references.

As described in the specification, the inclusion of a light source and magnetic base allows the user to accurately measure a temperature while keeping hands free to perform other tasks. The examiner has admitted that there is no such teaching in Kienitz. Sorensen is cited to show use in the auto repair field. However, Sorensen teaches a large heating system that is rolled into place. The system is not hand-held and there is no need for a magnetic base to free the operator's hands. Similarly, since the energy zone being measured is of no concern in Sorensen, the pyrometer simply

returns a temperature to the servo system, there is no need for a light source to illuminate the energy zone. As described above, the purpose of the flashlight disclosed in Teetzel is not clearly explained in the patent. Finally, in Blair, there is no teaching that the operator needs to have hands free to perform other operations.

Accordingly, even if the elements recited in claim 1 were present in the references, there is no motivation to pick and choose between the various references to construct the claimed combination absent utilizing the claim itself as a roadmap.

Accordingly, claim 1 is not obvious in view of the cited references. Claims 5 and 6 depend on claim 1 and are allowable for the same reasons.

Claim 1 is rejected under 35 U.S.C. §103(a) as being unpatentable over Hollander et al in view of Sorensen, Blair, and Winnard.

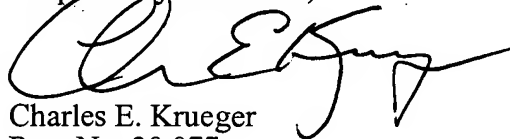
This rejection is respectfully traversed for the same reasons set forth above for the rejection based on Kienitz.

CONCLUSION

Accordingly, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (925) 944-3320.

Respectfully submitted,


Charles E. Krueger
Reg. No. 30,077

Law Office of Charles E. Krueger
P.O. Box 5607
Walnut Creek, CA 94596
Tel: (925) 944-3320
Fax: (925) 944-3363